

The Leesburg Planning Commission met on Thursday, October 20, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Christopher Murphy, Aref Etemadi, Asghar Pariroo, Bill Ackman, Barbara Beach and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Wright

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Wright
Commissioner Bangert
Commissioner Barnes
Commissioner Burk
Commissioner Moore

Commissioners Hoovler, Kalriess, and Mayor Umstattd were absent.

ADOPTION OF AGENDA

Commissioner Barnes moved to adopt the agenda as presented.

Motion: Barnes
Second: Moore
Carried: 4-0-2

Commissioner Bangert was not present for this vote.

APPROVAL OF MINUTES

Commissioner Barnes moved to adopt the minutes of the October 6, 2005 meeting.

Motion: Barnes
Second: Moore
Carried: 4-0-2

Commissioner Bangert was not present for this vote.

CHAIRMAN'S STATEMENT

Chairman Wright reviewed tonight's agenda, setting out the time limits for the petitioner's session.

PETITIONERS

None

PUBLIC HEARING

TLSE 2005-0004 Carr Tank #2 Special Exception application for a Water Storage Tank Facility at 150 Fort Evans Road. The applicant did not come forward to give a presentation.

Christopher Murphy presented the staff report. Staff recommends approval of this new water tank contingent on the conditions listed in the staff report which request substantial conformance, no waiver or modification of requirements, vacation of private access easement, limitation on site disturbance, and no site lighting except as mandated by FAA requirements. He further reported that while the current town plan does not directly address water towers, it does address continuation to provide adequate water supply in its Community Facilities Services section, Objective 5. The land was proffered to the town through the Fort Evans Plaza application.

There were no members of the public present to address the Commission.

Commissioner Barnes asked who the owner of the land was, the town or Battlefield FE. Mr. Murphy explained that it was Battlefield FE (Uniwest), but that they are dedicating the land to the town as part of their application. Mr. Barnes went on to ask about the access to this site. Mr. Murphy said that in order to avoid direct access onto Battlefield Parkway, the site will be accessed through the plaza area.

Commissioner Burk asked if the current access way will be closed off? Mr. Murphy said yes, that was one of the conditions for approval. Mr. Burk went on to say that he liked the concept of keeping the two tanks in one area.

Commissioner Bangert asked if this tank will preclude the one proposed for the Bolen Park site. Aref Etemadi of the Utilities Department, said that the 1997 Town Plan identified three additional tank sites. Realistically this has been reduced to two, this proposed one and another one in the airport area.

Commissioner Moore asked what the level of the screening was, S2 or S3? Mr. Murphy said it was S2 all around. Mr. Moore went on to ask if the applicant was satisfied with the conditions, and asked about the fencing requirements. Mr. Murphy said that the comprehensive planning comment was that a certain type of fence be chosen to blend with the area.

Commissioner Wright asked the Commission if they would like to suspend the rules of Public Hearing open for ten days and vote on this application tonight.

Commissioner Bangert moved to suspend the rules and vote on this application tonight.

Motion: Bangert
Second: Barnes
Carried: 5-0-2

Commissioner Moore moved to approve the application with the conditions outlined in the staff report.

Motion: Moore
Second: Burk
Carried: 5-0-2

ZONING

None

SUBDIVISION AND LAND DEVELOPMENT

None

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVE'S REPORTS

None

STAFF AND COMMITTEE REPORTS

Barbara Beach, Town Attorney, addressed the Commission in a worksession format. She provided them with information on the guidelines governing the Commission from the Zoning Ordinance, Code of Virginia and Town Code. Moving on to development applications, she stressed the importance of making sure everything is included in an application prior to its acceptance. Making sure that all of the requirements are available to potential applicants from the very beginning is the ideal scenario. Ms. Beach cautioned that if proffers or other promises are not in writing, not to move the application forward to Council level. If there is time, the item should be deferred. Mostly it is procedural mistakes that end up in court, things such as improper notices, or no notice are the targets of legal action. She went on to say that she would be in attendance at the meetings and will caution on a decision if she feels it is based on weak or misinformation.

The session then moved into a question and answer format.

Chairman Wright asked if Richmond had any legislation out there that would change the ground rules. Ms. Beach responded that she would keep them apprised of any new legislation. Right now the eminent domain issue is a hot topic.

Commissioner Moore asked for clarification on the ideal timetable of an application. Where does it start, and at what point does the Planning Commission come in? Ms. Beach replied that the Commission should not become involved until staff has done the research on the application and has made its recommendation. There was a question about meeting with applicants one on one. Mr. Beach responded that this was permissible, but cautioned that care should be taken to be a listener in this situation. All information should be filtered through staff for consideration. Mr. Moore then asked if anything submitted less than a week before the meeting should be considered not applicable. The question arose whether that rule existed at present. Susan Swift said that the rule is not presently in place. Ms. Beach said that this needed to be put in the rules of operation, or the By Laws. Chairman Wright said it should be in the By Laws and also be a part of the materials handed to the applicant. Commissioner Burk asked if there was a procedural document in place that guides the Commission. Chairman Wright said there is nothing in place and that the By Laws should be reviewed on an annual basis. Mr. Moore said perhaps other By Laws should be reviewed to see what we can do to institute the two week advance notice. Ms. Beach said they could vote tonight on this.

Commissioner Bangert moved to adopt the rule that Planning Commission will not consider any material that has not been submitted two weeks in advance and to direct staff to make that rule known to all applicants.

Motion: Bangert
Second: Barnes

Commissioner Moore added that the information that goes to the Commissioners must be submitted to them through staff. This statement was considered a friendly amendment and agreed to as a part of the above motion.

Carried: 5-0-2

Commissioner Bangert asked if it was possible to go back after they have gone through a process and evaluate it. Ms. Beach said yes, they can. She also suggested that some applications may require worksessions to work through some of the questions or problems they see. Ms. Bangert then asked if an application is denied by the Commission, who would oversee the reapplication to assure that it is not drastically changed prior to the Council hearing and vote? Ms. Beach said she would hope that the council would want to have all of the work done before it gets to them, however, sometimes a change could be a viable one. The public would be one way to watch how drastic the change is, especially if they were involved in the Planning Commission public hearing. Ms. Beach said she wants to see all applications complete prior to acceptance. Every rework causes delay and the possibility of resulting criticism. She is working with

staff to assure that a process is available from the very beginning of the application. It is important that everything has been included prior to the application moving on to the Commission level, and ultimately to the Council level.

Commissioner Burk asked about the relationship between the Commission and the Council. To what extent is it appropriate to contact Council if they realize that an application is changed from what they reviewed. Ms. Beach said they should communicate it as a body to make Council aware. Can staff alert the Commission if they feel that there are significant changes made to an application. Susan Swift said this could be done with some forethought. Mr. Burk asked if there was any mechanism in place currently. Chairman Wright said that currently the public hearing at the Council level would be the platform that would allow for this.

Commissioner Bangert asked if a plat and proffer show two different things, which one supercedes? Ms. Beach said this is not good, however, a plat that is recorded is public record, versus proffers that are not recorded. However, a judge could go either way. Ms. Swift said this has become a problem and that is why they are trying to be very picky with regard to interpretations.

Commissioner Moore asked if Council could send some back to the Commission if they feel that the changes are too significant? Ms. Beach responded that yes, they can, however timing is often the issue here which is why things for the most part are not remanded back to the Commission.

Chairman Wright followed up by asking about the process improvements. He asked the attorney if she had any comments on this. Is this still in review? Ms. Beach reiterated that again, the application must come in properly right in the beginning. It should meet all code and ordinance requirements.

Following some further discussion on the process and the timeframes of applications, the question on when serious review of the process could begin arose. Susan Swift responded that they are working on some changes to bring to the Commission, but it will take some time. Ms. Beach said again, there needs to be a detailed checklist for the applicant right at the start of the process so that they can get the process off to the best possible start.

Susan Swift recapped many issues and changes that have happened and that will be happening over time.

Chairman Wright reported on the BAR meeting that he had attended, saying that the major business at hand was finalizing their sign approval process that may initiate an ordinance change to allow the design guidelines to be used and administrative approval for certain signs.

OLD BUSINESS

Commissioner Bangert asked about the Crescent District Master Plan and when it would be available. Susan Swift responded that they are still awaiting comments on the land use matrix. Also the BAR has formed a subcommittee to help the consultant draft direction for the architectural character of the district. Ms. Bangert asked if these would be design guidelines. Ms. Swift responded that no, this would not be a design guideline, but would assist in drafting and adopting design guidelines for the area.

Commissioner Burk asked if the Douglas complex will stay as part of the redevelopment process in this area. Ms. Swift replied that it will remain, but it is unclear at present in which capacity. Mr. Burk went on to say that this community center provides activities that serve a specific socio-economic culture that are not available elsewhere in Leesburg.

NEW BUSINESS

Commissioner Bangert asked when they might schedule their annual retreat. Chairman Wright asked that they put calendar setting on the agenda of one of the upcoming meetings. Commissioner Bangert then asked when they might begin to look at the revisions of the Zoning Ordinance. Susan Swift said that Comprehensive Planning is looking at the major changes that will require code revisions as a result of the new Town Plan. She went on to say that rather than waiting two years to revise the entire code, they should work on pieces of the Ordinance on those important issues most imminent. One example is affordable housing. Do we wait two years for this, or do it in a more timely fashion? Ms. Swift went on to say that there is a lot of interdepartmental work that will also go into this process.

Commissioner Moore asked what the process was for revision to the Zoning Ordinance. Ms. Swift replied that the Council will need to initiate text amendments to the Ordinance and there would be public hearings on the Commission and Council levels.

ADJOURNMENT

The motion was made and seconded to adjourn at 8:35pm.

Prepared By:

Approved by:

Linda DeFranco, Commission Clerk

Kevin Wright, Chairman